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TITLE IV

PUBLIC RESOURCES AND CONSERVATION ORDINANCE

Chapter 1 Title, Purpose and Authority

101 Title

This Ordinance shall be known and may be cited as the "Public Resources and Conservation Ordinance."

102 Purpose

The purpose of this Ordinance is to define the benefits and responsibilities which people may expect when they use public resources in Ogunquit. Benefits are defined because public resources are limited, and some rules govern their use so that each person may reasonably know how they may enjoy those resources. Responsibilities include restrictions on personal behavior made necessary by the fact that the prohibited behavior adversely affects the enjoyment of those resources by other people.

103 Authority

Town authority to enact this Ordinance is found generally in Title 30 of the Maine Revised Statutes, in which the State of Maine authorizes municipalities to enact ordinances that promote and protect public health, safety, and welfare. Specific authority to enact ordinances in some subject areas has also been delegated by the State. For instance, Title 12 of the Maine Revised Statutes authorizes municipalities to regulate shellfish harvesting.

Chapter 2 Ordinances Having General Application

201 Definitions

As used in this Ordinance, the words listed below shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

201.1 Town or Ogunquit is the Town of Ogunquit;

201.2 Director is the Parks and Recreation Director;

- 201.3 Fire Chief is the Ogunquit Fire Chief;
- 201.4 Police Chief is the Ogunquit Police Chief;
- 201.5 Public Property includes, but is not limited to parks, the Ogunquit Beach, Marginal Way, and other areas under public control or ownership;
- 201.6 Vehicle is any wheeled conveyance, whether motor powered, animal drawn, or self-propelled. The term shall include, but not be limited to, any trailer in tow, automobile, truck, wagon, snowmobile, motorbike, moped, motorcycle, or trail bike of any size, kind, or description. Exception is made for baby carriages, wheelchairs, bicycles, rescue equipment, and vehicles used in the maintenance and operation of public property.

202 *Public Property*

Except as may be necessitated by construction or maintenance activities, no person shall:

- 202.1 Disfigure Property - Disfigure and remove buildings and other property including any act to willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, bridge, table, bench, railing, paving, or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, signal devices, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, playground equipment, or other public property;
- 202.2 Remove Natural Resources - Including any act to dig or remove any sand, soil, rock, stones, trees, shrubs or plants, timber or other wood or materials, or any excavation by tool, equipment, blasting or other means or agency, except where authorized by the Town Manager.
- 202.3 Erect Structures – Or buildings of any kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such property except where authorized;
- 202.4 Injure Vegetation - Including any act to damage, cut, carve, transplant, or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach a rope, wire, or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, such as walking on grass or vegetated areas where

public walkways are provided, or in any other way injure or impair the natural beauty or usefulness of any area;

202.5 Climb on Structures - Including any act to stand or sit upon monuments, vases, fountains, railings, fences, or upon any other property not designated or customarily used for such purposes.

203 *Sanitation*

No person shall:

203.1 Pollute Waters - Including any act to throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pool, pond, stream, or other body of water in or adjacent to any public property or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, manner or thing, liquid or solid, which will or may result in the pollution of said waters;

203.2 Deposit Refuse - Have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse, or other trash on public property. No such refuse or trash shall be placed in the waters in or contiguous to any public property or highways, or left anywhere on the grounds therefore, but shall be placed in the proper receptacles where these are provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away by the person responsible for such presence, and properly disposed of elsewhere;

203.3 Deposit Excrement - Urinate or defecate anywhere on public property except at public facilities provided for that purpose.

204 *Motor Vehicles and Bicycles*

A person shall:

204.1 Obey State Motor Vehicle Laws - Comply with all applicable provisions of the Maine Motor Vehicle Laws with regard to equipment and operation of vehicles together with such regulations as are contained in this and other Ogunquit Ordinances. Operation of vehicles shall occur on public ways and paved roads only;

204.2 Obey Traffic Signs - Observe carefully all traffic signs and pavement markings indicating speed, direction, caution, stopping, or parking, and all other signs posted for proper control and to safeguard life and property.

A person shall park only at established or designated parking areas, in accordance with posted directions and/or instructions of any attendant who maybe present;

- 204.3 Bicycles - Ride a bicycle on a paved vehicle road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or any paved area reserved for pedestrian use.

205 *Recreational Activities*

- 205.1 Bathing and Swimming - No person shall swim, bathe, or wade in the waters of any fountain, pond, pool, stream, ocean, or other body of water in or adjacent to any public area or any tributary, stream, storm sewer, or drain flowing into such waters, except in such waters and in such places as are specifically provided for swimming or bathing purposes, and in compliance with such regulations as are herein set forth. Nor shall any person frequent any waters or places customarily designated for the purposes of swimming or bathing, or congregate thereat in such activities prohibited by this Ordinance upon finding such use of the water would be dangerous or otherwise inadvisable. A person shall at all times bathe or swim at his or her own risk, whether or not the bathing or swimming is supervised.

- 205.2 Ice Skating - A person shall ice skate only at designated areas. Where ice-skating is permitted, a person shall ice skate at his or her own risk. No person shall ice skate when ice-skating is unsafe, as indicated by appropriate signs.

- 205.3 Hunting and Firearms - It shall be unlawful for any person, not being a guard or law enforcement official under the laws of the State of Maine, to discharge a firearm within the Town of Ogunquit with the following exceptions:

Hunting of wild animals and wild birds is permitted during the legal open hunting season, except that such hunting shall be limited to the use of a shotgun or long bow and arrow within that portion of Town east of the Maine Turnpike (US Route 95), north of the Josias River and south of the Ogunquit River; or at a target range, or in lawful self-defense, or while saluting with blank charges.

The use of air rifles, air pistols, pellet guns or BB guns, so-called, is prohibited within the Town of Ogunquit except in such places

provided on private property or by some organization in the Town. ***(Amended Annual Town Meeting 05/02/1985)***

205.4 Camping - No person shall set up tents, shacks, or other temporary shelter for the purpose of overnight camping, nor shall any person leave in a public area any moveable structures or special vehicles that could be used for such purposes such as a house trailer, camp trailer, tent or the like.

206 *Behavior*

206.1 Public Decency - No person shall uncover or expose his or her genitals, pubic hair, perineum, anus, or buttocks, or uncover or expose any portion of the female breasts at or below the areola.

206.2 Fires - No person shall build or attempt to build a fire, except at such areas and under such regulations as may be designated by the Board of Selectmen, pursuant to local and state fire laws and ordinances.

The Ogunquit Fire Chief shall issue any fire permits that are required by state fire laws or town ordinances. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco or other inflammable material, within public property or on any highway, road or street.

206.3 Closed Areas - No person shall enter an area posted as "Closed to The Public", nor shall any person use, or let the use of any area in violation of posted notices.

206.4 Obstructing Passage - No person shall loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public place within the Town in such a manner so as to: (1) obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to impede the free and uninterrupted passage of vehicles, traffic or pedestrians; (2) commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property by anyone in or upon or facing or fronting on and such public street, public highway, public sidewalk or any other public building, all of which prevents the free and uninterrupted ingress, egress, and regress therein, thereon, and thereto. When any person causes or commits any of the conditions enumerated herein, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a

violation of this Ordinance.

206. 5 Throwing Objects - No person shall throw stones or other missiles on any public property or street in Ogunquit.

206. 6 Playing Games - No person shall play a game or participate in any like activity in which a ball, Frisbee, or other similar object is used, on U.S. Route One, Beach Street, Shore Road, River Road, Hoyt's Lane or Berwick Road, and no such object, activity or game shall, otherwise or elsewhere, interfere with the orderly flow of vehicular and pedestrian traffic.
(Amended Special Town Meeting 11/04/2008)

207 *Advertising*

No person shall pronounce, advertise, or call to the public attention any way to any article or service for sale or hire while on public property except where authorized by the Town Manager. No person shall place circulars or other printed matter on vehicles anywhere in Ogunquit.

208 *Signs*

No person shall paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any Town owned lands or highways or roads. Exception from the prohibitions of this subsection is made for the posting of such notices as may be required by this Ordinance, or those notices having been approved by the Town Manager. Exception to these prohibitions shall also include those commercial vehicles having advertisement permanently affixed to them and are parked while the driver and/or passengers participate in any functions or properly utilize public facilities.

209 *Treatment of Newsracks*

The restrictions contained in Sections 207 and 208 shall not apply to newsracks which may be placed on the inside edge of the public sidewalks in Ogunquit providing they do not impede the safe passage of pedestrians. Newsracks may not be placed within ten (10) feet of any marked crosswalk, fire hydrant, driveway entrance or handicap ramp. Newsracks may not be chained, bolted or otherwise attached to any fixture located in the public right-of-way, except to other newsracks. Newsracks may not be placed within one hundred (100) feet of any other newsrack on the same side of the street containing the same issue or edition of the same publication. A newsrack shall be defined as any container, which is used to dispense newspapers and/or magazines. It shall be the responsibility of the owner or distributor of the newsrack to maintain it in good

repair and in accordance with this Section. No newsrack may be placed in Ogunquit without the owner or distributor (or agent thereof) first obtaining a permit from the Town Manager.

The Town Manager shall issue a permit for any newsrack which will be placed in conformance with this Section provided that the application for the newsrack describes it, specifies the location or locations involved, contains an agreement to indemnify and hold harmless the Town and its officers and employees for any loss, liability or damage, including expenses and costs for bodily or personal injury, and contains the name and address of the person responsible for it. Whenever a newsrack is found to be in disrepair or in violation of this Section, notice of same shall be provided to the owner or distributor (or agent thereof) of the newsrack. Failure to take corrective action within five (5) business days may result in the newsrack being removed by the Town Manager. In addition, the Town Manager may remove any news rack that creates a public danger. Permits granted under this Section shall be issued for a twelve (12) month period. Anyone aggrieved by the decision or action of the Town Manager may appeal that decision or action to the Board of Selectmen. ***(Amended Annual Town Meeting 04/08/1991)***

Chapter 3 Parks

301 Definition

For the purposes of this Ordinance, the term "park" shall include but not be limited to the areas within the boundaries of the following Town owned recreational properties and facilities:

| <u>Name</u> | <u>Location</u> |
|---|----------------------|
| Agamenticus Road Recreation Area | Agamenticus Road |
| Ledge Road Park* | Ledge Road |
| *renamed "Littlefield Park" (STM 12-10-96) | |
| Veteran's Park | Beach Street |
| Ocean Street Park | Ocean Street |
| Shore Road Park | Shore Road |
| Dunaway Community Center Grounds | School Street |
| Frazier Pasture Road Park | Frazier Pasture Road |
| Info. Bureau Grounds & Triangle | School Street |
| Fireman's Park | Shore Road |
| Perkins Cove Rotary Park | Perkins Cove |
| Dorothea Jacobs Grant Common | Obeds Lane |
| Bourne Lane Park | Bourne Lane |

And the following areas, which are leased by or otherwise under Town control:

| | |
|----------------------------|--------------------------|
| Moody Pond | Route One |
| Tower Playground | Highland Avenue |
| Ogunquit School Playground | School Street - Seasonal |

Other park areas shall be included as they are acquired for public use.

302 *Operations*

302.1 Hours - With the exception of Veteran's Park and the Dunaway Community Center Grounds, all Town parks as defined in Section 301 shall be open to the public every day of the year from 6:00 a.m. to 10:00 p.m., Eastern Standard Time or Eastern Daylight Time, as may be then in effect. Veteran's Park shall be open to the public every day of the year from 6:00 a.m. to 11:00 p.m.

302.2 Closed Areas - Any section or part of any park may be declared closed to the public by the Director at any time for any interval of time, either temporarily or at regularly stated intervals, daily or otherwise.

302.3 Entry Prohibited - Except with the written permission of the Director, no person shall enter, pass through, or remain in any park, or the closed areas of any park, except during the hours and time which such park, or portion thereof, is open to the public as provided in this Section.

302.4 Park Regulations - The Director may adopt other non-conflicting park regulations that will govern public use of parks and park facilities.

303 *User Fees*

The Board of Selectmen may establish fees for public use of parks and park facilities after receiving a recommendation from the Director.

Chapter 4 **Beaches**

401 *Definitions*

401.1 Ogunquit Beach - All unpaved land above low water mark, bounded on the west and south by the Ogunquit River, on the east by the Atlantic Ocean, and on the north by the Wells-Ogunquit line, and also all land above low water mark at the Little Beaches, so-called; **(Amended Annual Town Meeting 04/05/2008)**

401.1.a Starting at the Ogunquit Sewer District pumping station (Lighthouse); then running northerly to the southeast side of the sand dunes; then running northerly to the easterly side of the sand dunes to the Wells-Ogunquit town line; then running westerly to the west side of the Ogunquit River including the Rachel Carson Preserve; then running southerly including private and public land(s) along the west side of the Ogunquit River, back to the Lighthouse. The estuary is to include the riverside beaches, river, sand dunes, clam flats and marshland, but does not include: the Ogunquit Beach Parking Lot, Footbridge Parking Lot, and North Beach Parking Lot (Moody Beach Parking Lot).

401.2 Life Guard – The Life Guard Captain and all other lifeguards employed by the Town of Ogunquit.

402 *Authority of the Life Guard*

The Life Guard shall have the following responsibilities:

402.1 To monitor and supervise bathing activity in the vicinity of established lifeguard stations and to designate areas by means of ropes and floats (4/3/89 ATM).

402.2 To monitor water conditions and to post notice of dangerous water conditions. It is a violation of this Section for a person to enter the water after observing the posted notice or after receiving notice from the lifeguard;

402.3 To notify bathers of dangerous water conditions and to report continued illegal conduct to any police officer;

402.4 To designate separate areas for surfboarding, windsurfing and small craft such as sailboats, hobiecats, canoes and kayaks;

402.5 To designate areas for playing games involving use of balls, Frisbees and other similar objects, conditions permitting. The presence of other people is sufficient reason to deny permission for playing games.

403 *Other Beach Restrictions*

The following restrictions pertaining to the Ogunquit Beach are in addition to applicable State of Maine laws and other Ogunquit ordinances governing the public area.

403.1 Public Behavior

403.1.1 No person shall don or remove clothing other than outer garments such as coats in automobiles, comfort stations, nor anywhere within the Ogunquit Beach area, except in bathhouses or other suitable and

approved structures provided for that purpose. This does not apply to children under ten years of age.

- 403.1.2 Any person may play games involving use of balls, Frisbees or other objects on the Beach, at any time, unless such activity interferes with other beach activities. The lifeguard shall designate suitable areas and supervise such activity.
- 403.1.3 No person shall enter restricted portions of the Ogunquit Beach and the Ogunquit Sewer Treatment Plant. The Select Board shall designate restricted areas. The minimum fine for violation of this subsection shall be Fifty Dollars (\$50).

403.2 Vehicles

Motor vehicles are prohibited within the Beach area except in the parking areas provided for them. In case vehicles are needed for gathering seaweed or wreckage, recorder permission shall be secured from the Police Chief.

403.3 Aircraft

No aircraft is permitted to land on the Beach area except in the case of extreme emergency or to fly at an altitude of less than five hundred feet (500') above the Beach area.

403.4 Animals

The restrictions in this subsection are also found in the Animal Control Ordinance of Ogunquit.

- 403.4.1 Dogs are permitted within the Ogunquit Beach area from September 9 to March 31. Dogs are not permitted within the entire Ogunquit Beach area from the Main Beach to the Moody Beach Town Line from April 1 to September 8. Dogs are not permitted in the Ogunquit River Estuary. **(Amended Annual Town Meeting 04/09/2001, Amended Special Town Meeting 11/04/2008, Amended Special Town Meeting 11/03/2009, Amended Annual Town Meeting Amended Annual Town Meeting 06/14/2016)**
- 403.4.2 Ponies or horses are not permitted on Ogunquit Beach, including the Ogunquit River Estuary, year-round. **(Amended Special Town Meeting 11/04/2008)**

404 *Beach Parking Pass & Fee Policy (Annual Ordinance 4/08/91 ATM)*
REPEALED by the Board of Selectmen at its meeting on April 29, 2003.

405 *Regulation of Hours of Public Beaches*

405.1 Beaches Closed During Certain Hours: Ogunquit Beach, as defined in this

Chapter, shall be closed to the public from 11:00 pm to 5:00 am during the months of May through October of each year.

405.2 The Board of Selectmen may grant a permit for extension of beach hours to a bonafide nonprofit organization for a specific event; such a permit shall stipulate the specific date, time, location and any conditions that the Board may choose to impose.

405.3 Any person found on the beach in violation of this Ordinance shall be guilty of a misdemeanor, which shall be punishable by a fine not to exceed Five Hundred Dollars (\$500) for each violation. Fines collected hereunder shall be recovered for use of the Town of Ogunquit (**Select Board 12/28/1982**).

406 *Ogunquit River Restrictions*

The maximum speed limit for all watercraft shall be at “headway” speed within 200 feet (200’) of shore. Violation of this speed shall result in a One Hundred Dollar (\$100) fine being imposed (**Select Board 08/20/1996**).

407 *Smoking Prohibited at Ogunquit Beaches*

407.1 No person shall smoke tobacco or any other substance on Ogunquit Beaches including Main Beach, Footbridge Beach or North Beach. Additionally, the discarding of cigarettes and cigar butts onto the ground at Ogunquit Beaches is unsightly, unclean and particularly hazardous to young children and wildlife. Disposal of such tobacco litter is also prohibited. (**Amended Special Town Meeting 11/02/2010**)

407.1.1 Enforcement

Prior to issuing a citation for a violation of this Section, a police officer or any law enforcement or code enforcement officer shall issue one (1) verbal warning to an individual. Failure to comply, after an initial warning, shall merit a fine of Fifty Dollars (\$50). In addition, failure to comply with one (1) warning is cause for said fine whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.

Chapter 5 Marginal Way

501 *Definition*

The Marginal Way is a pedestrian walkway extending along the Atlantic Ocean coastline from Perkins Cove north to Shore Road opposite Obeds Lane and from the end of Wharf Lane north to Beach Street opposite River Road. Besides these entrances, there are other access points from Frazier Pasture Road, Israel Head

Road, Briar Bank Lane, Ontio Hill Road and Shore Road at the intersection with Israel Head Road.

502 *Wheeled Vehicles Prohibited*

No person shall operate or permit the operation of any wheeled vehicle, including bicycles, skateboards/in-line skates on the Marginal Way. This shall not be construed so as to include wheelchairs, strollers or like vehicles. **(Amended Special Town Meeting 09/13/1995)**

503 *Dogs Prohibited*

Dogs are permitted on the Marginal Way from October 1 to March 31, if on a leash, cord or chain. Dogs are not permitted on the Marginal Way from April 1 to September 30. **(Amended Annual Town Meeting 04/09/2001, Amended Special Town Meeting 11/03/2009)**

Chapter 6 Shellfish Management Ordinance

601 *Authority*

This Ordinance is enacted in accordance with 12 M.R.S.A. Sections 6671 and 6681.

602 *Purpose*

To establish a Shellfish Conservation Program for the Town of Ogunquit which will insure the protection and optimum utilization of shellfish resources within its geographical limits. These goals will be achieved by means, which may include:

- A. Licensing of shellfish harvesters (diggers);
- B. Limiting the number of shellfish harvesters;
- C. Restricting the time and area which harvesting is permitted;
- D. Limiting the minimum size of clams taken; and
- E. Limiting the amount of clams taken daily by a harvester.

603 *Shellfish Conservation Commission*

The Shellfish Conservation Program for the Town of Ogunquit will be administered by the Shellfish Conservation Commission consisting of five (5) regular and two (2) alternate members to be appointed by the Selectmen for terms of three (3) years. The Commission's responsibilities include:

- A. Establishing annually, in conjunction with the Department of Marine

Resources of the State of Maine, the number of shellfish digging licenses to be issued;

- B. Surveying the clam-flats to maintain current information on shellfish resources. Such surveys include:
 - a) Determination of size frequency of the shellfish,
 - b) Determination of growth,
 - c) Estimation of the standing crop of shellfish,
 - d) Collection of harvest data documenting local values of shellfish resources,
 - e) Estimation of potential yield of the flats,
 - f) Identification of sources of pollution impacting shellfish populations and location of sources on charts,
 - g) Identification of other resource problems such as green crab predation on shellfish and competition from mussels,
 - h) Reseeding and transplanting to make fallow areas productive, and
 - i) Placing barriers to keep spat in the area.
- C. Submitting to the Board of Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation;
- D. Reviewing this Ordinance periodically and make recommendations for amendments on a timely basis;
- E. Securing and maintaining records of shellfish harvest from the Municipality's managed shellfish areas (and closed areas that are conditionally opened by the Department of Marine Resources);
- F. Recommending conservation closures and openings to the Board of Selectmen in conjunction with the Area Biologist of the Department of Marine Resources;
- G. Designing and promulgating a Shellfish Conservation Plan in Cooperation with the Department of Marine Resources based on the results of the clam flat survey, incorporating recommended levels of harvesting on the various flats (as shall be delineated on maps prepared by the Conservation Commission). Possible inclusions in such a plan are crop rotation, seed programs and predator control.
- H. Submitting an Annual Report to the Municipality and Department of Marine Resources detailing: all funds available, fund expenditures, harvest data, results of all experimental and conservation programs, enforcement activities and sources of pollution.

603.1 Fee Schedule

Submitting a recommended fee schedule to the Board of Selectmen on an annual basis for licenses, whereupon the Selectmen shall then have the authority to accept, reject or amend such fees, as they deem

necessary. **(Amended Annual Town Meeting 04/07/2003)**

604 *Definitions*

604.1 **Municipality** means the Town of Ogunquit, Maine.

604.2 **Resident** means a person who has resided in the State of Maine for at least six (6) months next prior to the time his claims of such residence is made, and who has resided in this municipality for at least three (3) months prior to the time his claims of such residence is made. "Resident" is extended to include non-resident property tax paying owners of real estate in this municipality.

604.3 **Non-Resident** means a resident of the State of Maine who is otherwise qualified as a resident under this Ordinance.

604.4 **Shellfish/Clams** means soft-shell clams ("Mya Arenaria").

604.5 **Harvest** means to dig, take, remove or otherwise harvest shellfish in the municipality.

604.6 **Lot** means the total number of clams in any bulk pile. Where clams are in a box, barrel or other container, the contents of each box, barrel or other container constitutes a separate lot.

604.7 **Possess** means harvest, ship, transport, hold, buy and sell retail and wholesale clam shellstock.

604.8 **Period of Issuance** means the first ninety (90) days during which this municipality issues shellfish digging licenses each year.

605 *Licensing*

Municipal Shellfish Digging License is required. It is unlawful for any person to harvest shellfish in this Municipality without having a current license issued by this Municipality as provided by this Ordinance. It shall be lawful to harvest clams during the dates stated on the license. Actual digging is limited to daylight hours. It will be unlawful to dig from sunset to one-half hour before sunrise.

A licensee under the age of eight (8) must be accompanied by an adult licensee at least eighteen (18) years of age at all times when harvesting shellfish.

(Amended Annual Town Meeting 04/07/2003)

605.a **Type of License**

- 605.a.1 **Resident, Real Property Taxpayer and Town Employee Recreational Shellfish License**
- This license is available to residents, real property taxpayers and town employees only of this municipality and entitles the holder to harvest no more than one (1) peck of shellfish in any one (1) day for the use of himself and his family, from the shore, flats or coastal waters of this municipality, when and where it is lawful to do so. **(ATM 06/11/13)**
- 605.a.2 **Non-Resident Recreational, Shellfish License**
- This license is available to any Maine resident who is not a resident of Ogunquit and entitles the holder to harvest not more than one (1) peck of shellfish in any one (1) day for the use of himself/herself and his/her family, from the shores, flats or coastal waters of Ogunquit when and where it is lawful to do so. **(ATM 04/07/03)**
- 605.a.3 **Resident, Commercial Shellfish License** - No license available.
- 605.a.4 **Non-Resident, Commercial Shellfish License** - No license available.
- 605.a.5 **One-Time, Specific Date Permit** - Will be available on specified dig date to anyone on a first-come basis, any state, at areas designated by the town. ***(Amended Annual Town Meeting 04/07/2001, Select Board 10/18/2005, Amended Annual Town Meeting 06/11/2013).***
- 605.a.6 **Ogunquit Shellfish Conservation Commission - Reserved Licenses** - These licenses shall be issued to each member serving on the Commission less than one (1) year upon payment of stated fees. Those Commission members having served more than one (1) year and accumulating ten (10) or more hours of service time doing clam surveys, testing, or anything that benefits the Commission during the previous year shall be entitled to a free license. ***(Amended Annual Town Meeting 04/07/2001)***
- 605.a.7 **License Must Be Signed**

The licensee must sign his or her license in order to validate it. Any person harvesting clams in this municipality shall have on his/her person and show to any Warden or Law Enforcement Officer positive identification, when requested, in addition to the license, where required.

605.b **Application Procedure**

Any person may apply to the Town Clerk for the license required by this Ordinance on forms provided by the municipality.

605.b.1 **Contents of the Application**

The application must be in the form on an affidavit and must contain the applicant's name; current address, birth date, height, weight, signature and other information the Municipality may require.

605.b.2 **Misrepresentation**

Any person who gives false information on a license application will cause said license to become invalid and void.

605.b.3 **Records**

The Clerk or designated officials of this municipality shall note on the application the date the license was issued, sign it and file the application with his or her records.

605.b.4 **Notice**

Notice of the number and the procedure for application shall be published in a trade or industry publication which the Municipal Officer's consider effective in reaching persons affected; not less than ten (10) days prior to the period of issuance and shall be posted in the Municipal Offices until the period concludes.

605.c **Limitation of Diggers**

Because the shellfish resources are limited and because a

commercial or recreational digger can be expected to harvest a certain volume of clams per year, the number of licenses must be controlled. The number will vary from year to year depending upon estimates of the resource capabilities and management requirements consistent with good resource utilization. The following procedures will be followed to exercise the control:

1. Prior to October 1 of each year, the Shellfish Conservation Commission with the approval of the Commissioner of Marine Resources will establish the number of licenses to be permitted.
2. The Shellfish Conservation Commission will notify the Town Clerk, in writing, prior to October 1 of each year the number of licenses to be issued.
3. During the period of issuance, the Town Clerk shall issue licenses to residents and non-residents as allocated for each year on or after November 1 until January 29, after which the then remaining unsold licenses shall be issued on a first-come, first-served basis to residents and non-residents alike.

605.d Open License Sales

When the Shellfish Conservation Commission determines limiting shell-fish licenses is not an appropriate shellfish management option for one or more license categories for the following year:

- 1) Notice of the dates, places, times and the procedures for the license sales shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the Commissioner of Marine Resources.
- 2) For each commercial license category, the Town Clerk shall issue one license to nonresidents when six (6) licenses are issued to residents and one more to nonresidents will be issued for every ten (10) additional resident license issued. For each recreational license

category, the Town Clerk shall issue one (1) license to a resident and one (1) to a nonresident; thereafter, one (1) nonresident license will be issued for every ten (10) additional resident license issued. **(Select Board 10/18/2005).**

605.e **License Expiration Date**

Each license issued under authority of this Ordinance expires at midnight on the 31st day of March.

606 *Minimum Legal Size of Shellfish*

It is unlawful to possess in this Municipality shellfish, which are less than two inches (2") in the longest diameter except that a licensee may possess shellfish that are less than two inches (2") if they comprise less than ten percent (10%) of any lot. The tolerance shall be determined by numerical count of not less than one (1) peck nor more than four (4) pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one (1) peck.

606.a Digger must use "clam digger's fork" or a tined fork with two-inch (2") separation of tines and with a handle no longer than two feet (2').

607 *Opening and Closing of Flats*

The Municipal Officers, with the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendation of the Shellfish Conservation Commission and concurrence of the Department of Marine Resources Area Biologist that the status of the shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Municipal Officers may call a public hearing on ten (10) days notice published in a newspaper having general circulation in the Municipality stating the time, place and subject matter of the hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Municipal Officers made after the hearing shall be based on findings of fact.

608 *Penalty*

A person who violates this Ordinance, in any way, shall be punished as provided by 12 M.R.S.A., Sections 6671 and 6681.

609 *Effective Date*

This Ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective, and continue to be effective after its adoption by the Municipality provided a certified copy of this Ordinance is filed with the Commissioner within twenty (20) days of its adoption.

610 Separability

If any section, subsection, sentence or part of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this Ordinance.

611 Repeal

Any ordinance regulating the harvesting or conservation of shellfish in the Town and any provisions of any other Town Ordinance, which is inconsistent with this Ordinance, is hereby repealed.

***Adopted at June 16, 1998 Special Town Meeting - Article 3.
Amended and Adopted at April 7, 2001, Annual Town Meeting, Article 4
Amended and Adopted at April 7, 2003, Annual Town Meeting, Article 11
Amended and Adopted at November 2, 2004, Special Town Meeting,
Article 2 – Question 2
Amended at Board of Selectmen Meeting held October 18, 2005 (90-Day
Emergency Ordinance effective November 6, 2005)
Amended and Adopted at June 11, 2013 Annual Town Meeting**

Chapter 7 Public Facility Policy

701 Existing regulations for use of the Dunaway Center

Chapter 8 Enforcement

801 Police Officers of Ogunquit are authorized to enforce the provisions of this Ordinance and other applicable laws.

Chapter 9 Penalties

901 Except where superseded by State law, violation of any provisions of this Ordinance shall be a misdemeanor. Unless otherwise specified, the penalty for violation of this Ordinance shall be a fine of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) or by imprisonment for not more than thirty (30) days, or both. Fines collected for violation of this Ordinance shall be recovered for the use of Town of Ogunquit.

Chapter 10 Prior Ordinances Repealed

- 1001 Prior inconsistent or conflicting provisions of "An Ordinance Regulating the Conduct in Public Parks - Ogunquit Village Corporation", approved in April 1978 and the Traffic and Sanitation Ordinances of the Ogunquit Village Corporation, as amended, are repealed.

Chapter 11 Severability

- 1101 If any provision of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

Chapter 12 Effective Date

- 1201 This Ordinance, upon its adoption by the Town of Ogunquit, shall become effective immediately. (Adopted by vote of the Ogunquit Village Corporation on June 2, 1980 - Articles 8, 9 and 11 of the Warrant.)